

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR (1) A GENERAL)	
ADJUSTMENT OF ITS RATES FOR ELECTRIC)	CASE NO.
SERVICE; (2) AN ORDER APPROVING ITS 2017)	2017-00179
ENVIRONMENTAL COMPLIANCE PLAN; (3) AN)	
ORDER APPROVING ITS TARIFFS AND RIDERS;)	
(4) AN ORDER APPROVING ACCOUNTING)	
PRACTICES TO ESTABLISH REGULATORY)	
ASSETS AND LIABILITIES; AND (5) AN ORDER)	
GRANTING ALL OTHER REQUIRED APPROVALS)	
AND RELIEF)	

ORDER

This matter arises upon the motion filed by the International Brotherhood of Electrical Workers, Local Union 369 ("IBEW Local 369"), on July 14, 2017, requesting to intervene in this proceeding. IBEW Local 369 is a labor organization that represents individuals employed in the electrical industry, including employees who work for contractors employed by Kentucky Power Company ("Kentucky Power"). As a basis for its motion to intervene, IBEW Local 369 states that it has an interest in the safety, quality of service, and rates charged to consumers by Kentucky Power. IBEW Local 369 asserts that it can present the interests of the employees of Kentucky Power subcontractors and that this interest is not represented by any other party to this case.

A hearing was held on July 24, 2017, to assist the Commission in reaching a decision on pending motions to intervene. At the July 24, 2017 hearing, the Commission received testimony in support of IBEW Local 369's request to intervene

from Ed Devine, an IBEW Local 369 business representative. Mr. Devine stated that IBEW Local 369 members work for Kentucky Power contractors as linemen and tree trimmers. He testified to the importance of wages, hours, and conditions of employment, especially regarding payment of market wages for linemen. According to Mr. Devine, hiring and retaining linemen is difficult in Kentucky because higher wages are offered by utilities outside of the Kentucky. Mr. Devine also testified that IBEW Local 369 had a special interest in worker safety and could ensure that workers have a voice regarding safety matters in this proceeding. Upon questioning, Mr. Devine confirmed that IBEW Local 369 does not represent Kentucky Power employees.

Counsel for IBEW Local 369 asserted that it is the only party to this proceeding that represents employees who work on power lines and tree trimming, and that it has a direct interest in Kentucky Power's ability to hire contractors and pay competitive wages in order to retain qualified linemen.

Based on the motion to intervene and hearing testimony, and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.¹ The Court of Appeals has held that the Commission's discretion to grant or deny a motion for intervention is not unlimited, and has enumerated the limits on the Commission's discretion, with one arising under statute, the other under

¹ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

regulation.² The statutory limitation, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”³

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In analyzing the pending motion to intervene, we find IBEW Local 369 does not receive service from Kentucky Power, is not a customer of Kentucky Power, and does not pay any rates charged by Kentucky Power. In addition, although the Commission has in prior transfer of control cases granted intervention to labor unions who represent affected employees, here IBEW Local 369 does not represent any Kentucky Power employees. Therefore, IBEW Local 369 lacks the necessary special interest in the rates and service of Kentucky Power sufficient to justify intervention. The only interest that IBEW Local 369 has in the rates and service of Kentucky Power is as a labor organization with a generalized interest in this proceeding. That interest is too remote to justify intervention here.

IBEW Local 369 will have ample opportunity to participate in this proceeding even though it is not granted intervenor status. It can review all public documents filed in this case and monitor the proceedings via the Commission’s website at the following

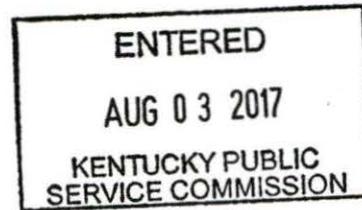
² *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

³ *Id.* at 3.

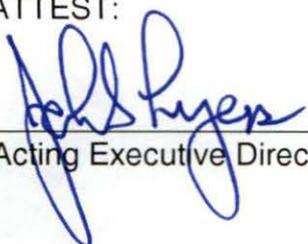
web address: https://psc.ky.gov/PSC_WebNet/ViewCaseFilings.aspx?Case=179. In addition, IBEW Local 369 may file comments as frequently as it chooses, and those comments will be entered into the record of this case. Finally, if a formal evidentiary hearing is held, IBEW Local 369 will be provided an opportunity at the beginning to present any information that it wishes for the Commission's consideration in this matter.

IT IS HEREBY ORDERED that IBEW Local 369's motion to intervene is denied.

By the Commission



ATTEST:



Acting Executive Director

*William H May, III
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KENTUCKY 40507

*Justin M. McNeil
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Don C Parker
Spilman Thomas & Battle, PLLC
300 Kanawha Blvd, East
Charleston, WEST VIRGINIA 25301

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Laurence J Zielke
Zielke Law Firm PLLC
1250 Meidinger Tower
462 South Fourth Avenue
Louisville, KENTUCKY 40202

*Elizabeth Sekula
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Kent Chandler
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Mark E Heath
Spilman Thomas & Battle, PLLC
300 Kanawha Blvd, East
Charleston, WEST VIRGINIA 25301

*Gregory T Dutton
Goldberg Simpson LLC
9301 Dayflower Street
Louisville, KENTUCKY 40059

*Kentucky Power Company
855 Central Avenue, Suite 200
Ashland, KY 41101

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Hector Garcia
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Kentucky Power Company
Kentucky Power Company
855 Central Avenue, Suite 200
Ashland, KY 41101

*Honorable Matthew R Malone
Attorney at Law
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KENTUCKY 40507

*Jody M Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Kenneth J Gish, Jr.
Stites & Harbison
250 West Main Street, Suite 2300
Lexington, KENTUCKY 40507

*Honorable Mark R Overstreet
Attorney at Law
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Janice Theriot
Zielke Law Firm PLLC
1250 Meidinger Tower
462 South Fourth Avenue
Louisville, KENTUCKY 40202

*Katie M Glass
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Morgain Sprague
Kentucky League of Cities
101 East Vine Street
Suite 800
Lexington, KENTUCKY 40507

*Rebecca W Goodman
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Ranie Wohnhas
Managing Director
Kentucky Power Company
855 Central Avenue Suite 200
Ashland, KENTUCKY 41101

*M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507